

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Mark D. Obenshain

2. **Bill Number** SB 355

3. **Committee** Senate Finance

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

4. **Title** Local Taxes: Short Term Rental Property

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

TAX understands that the patron plans to introduce a substitute bill. This impact statement addresses the substitute bill.

This bill would classify short-term rental property as a separate classification of merchants' capital, and would authorize the governing body of any locality to tax short-term rental property under the merchants' capital tax or under the short-term rental property tax, but not both. This bill would also specify that short-term rental property does not constitute tangible personal property for purposes of local taxation.

Under current law, short-term rental property is subject to the short-term rental property tax at a maximum rate of one percent, and is in lieu of any tangible business personal property tax. Short-term rental property is currently subject to the tangible personal property tax unless the locality imposes a short-term rental property tax.

This bill would be effective for tax years beginning on and after January 1, 2011. With regard to BPOL taxes, this bill would be effective for license years beginning subsequent to December 31, 2010.

6. **No Fiscal Impact.**

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

This bill would have no impact on state or local revenues.

9. **Specific agency or political subdivisions affected:**

All localities that impose the Short Term Rental Property Tax

10. **Technical amendment necessary:** No.

11. Other comments:

Merchants' Capital Tax

The Merchants' Capital Tax is a local option property tax imposed on the inventory, daily rental passenger cars, and all other personal property of merchants except for tangible personal property not for sale as merchandise. As of 2008, the tax was imposed in 46 counties and 7 towns. Localities that impose the tax are prohibited from imposing a BPOL tax on merchants. Additionally, the tax must be imposed at a rate that does not exceed the rate or ratio that was in effect in that locality on January 1, 1978.

Short Term Rental Property Tax

Prior to the 2009 General Assembly session, localities were authorized to impose a tax on "daily rental property," which consisted of all tangible personal property held for rental and owned by a "short-term rental business". The tax was imposed at a rate not to exceed 1 percent of the gross proceeds of a business engaged in a short-term rental business. A person is deemed to be engaged in the short-term rental business if: 1) at least 80% of the gross rental receipts of the business during the preceding calendar year arose from transactions involving the rental of short-term rental property, other than heavy equipment property, for periods of 92 consecutive days or less; or 2) at least 60% of the gross receipts of the business in the preceding year arose from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less.

Daily rental property constituted "merchants' capital" subject to the Merchants' Capital Tax. Legislation enacted in 2009 removed the daily rental property as a component of the Merchants' Capital Tax and made it a separate, freestanding tax, renamed the "Short Term Rental Property Tax."

Proposal

This bill would classify short-term rental property as a separate classification of merchants' capital, and would authorize the governing body of any locality to tax short-term rental property under the merchants' capital tax or under the short-term rental property tax, but not both. This bill would also specify that short-term rental property does not constitute tangible personal property for purposes of local taxation.

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cc : Secretary of Finance

Date: 2/3/2010 KP

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